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November 21, 2003

The Honorable Michael Powell
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: EB-03-IH-0110

Dear Chairman Powell:

I am deeply concerned over an order released by the Federal Communications Commission's ("FCC" or the "Commission") Enforcement Bureau on October 3, 2003, in response to numerous complaints regarding the broadcast of program material that contained language that is utterly profane and indecent as measured by any standard. The complaints arose from the broadcast by numerous licensees of the "Golden Globe Awards" program on January 19, 2003, whereby an individual used the "f-word" during the ceremony. After reviewing the formal complaints filed with the Commission, the FCC's Enforcement Bureau issued an order denying these complaints, holding that the use of this particular word, when considered in the context in which it was used, did not violate the statute or the FCC's regulations.

I am outraged and extremely disappointed with this latest salvo in a long string of decisions by the FCC that establishes a deeply disturbing precedent regarding the use of universally-recognized vulgar expletives on our nation's public airwaves. As a father of five, I am wary of enjoying an evening before the television with my children or of listening to the radio in the car with my kids for fear of being inundated with indecent or profane language. This latest decision opens the floodgates for an unrelenting stream of such language, so long as it does not describe "sexual or excretory organs or activities." Such reasoning is absurd and is not what was intended by Congress and cannot be what Americans expect when watching television or listening to the radio. No ordinary American stops to consider how the "f-word" is used – whether as an exclamatory adjective, a derogatory insult, or a sexually explicit verb – before deciding whether it is indecent or profane to his or her own self or family. It is time for the FCC to follow this model and apply simple, ordinary common sense to such situations in the interest of the American public.

Congress has set forth statutory guidance by which the FCC is required to follow. Section 1464 of Title of 18 of the United States Code prohibits the utterance of "any obscene, indecent or profane language by means of radio communication." 18 U.S.C. 1464 (2003). The FCC has promulgated regulations pursuant to this statute that prevents radio and television stations from broadcasting obscene material at any time, while prohibiting the broadcasting of indecent material from 6 a.m. to 10 p.m. *See* 47 C.F.R.

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73.3999 (2003). Under its enforcement authority, the FCC may issue warnings, impose monetary forfeitures, or even revoke station licenses in order to punish entities for non-compliance. I have learned, however, that the FCC has failed, and continues to fail, to use these resourceful tools to their fullest potential. While Notices of Apparent Liability have been assessed in relatively small amounts against a few violators, fines have rarely been collected, if collected at all, and no station license has ever been revoked. Such wanton abrogation of the Commission's duties will not be tolerated by the American people and their representatives.

In light of the fact that an Application for Review of the order is pending before the full Commission, I felt that I must express my disapproval of the Enforcement Bureau's action, as it is the latest extreme and upsetting example of the further coarsening of our culture without regard to the standards of local communities and an overwhelming majority of the American public. I therefore call upon the FCC to set an example with the present case by reversing the Enforcement Bureau's decision and diligently enforcing the statutory mandate which Congress has set forth addressing obscenity, indecency and profanity on our public airwaves.

Sincerely,


Chip Pickering

CP:mh

cc: Chairman Michael K. Powell
Commissioner Kathleen Q. Abernathy
Commissioner Kevin J. Martin
Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Parties of Record

*I strongly believe
the Bureau's decision
is wrong & sends the
wrong message.*